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2 renegotiate this covenant?

3 A. Because in my experience, it's not
4 common for a healthcare entity to renegotiate
5 a set of documents to their detriment and
6 potentially create a situation where they will
7 be in default of a covenant. They would be --
8 that would be very inadvisable for them to do
9 something like that and I think they were way
10 too smart for that.

11 Q. Right. AHERF's management got a
12 good deal in this covenant and they weren't
13 going to give it up?

14 MR. WITTEN: Objection.

15 MS. HACKETT: Objection, that's
16 inappropriate to ask her.

17 MR. KRUSKO: I press the question.
18 I don't think it's inappropriate; I'm not
19 trying to be argumentative.

20 Q. I would just simply like your view
21 as to whether AHERF's management thought they
22 got a good deal and they weren't going to
23 negotiate this test away?

24 A. You know, it's hard for me to
25 comment on that because any time a deal is

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2 Q. Do you recognize this as an e-mail
3 message from you to Patrick L. Mathis sent
4 Wednesday, December 9th, 1998 at roughly 2:11
5 in the afternoon?

6 A. Only because that's what it says;
7 I don't have -- I don't remember this specific
8 e-mail.

9 Q. Okay. Did you have any reason to
10 doubt that you did, in fact, send this e-mail
11 to Mr. Mathis?

12 A. No, I don't have any reason to
13 doubt that.

14 Q. In this time frame, December 1998,
15 was Mr. Mathis your boss?

16 A. December 1998, yes, he was.

17 Q. Do you recall the impetus for your
18 e-mail to Mr. Mathis?

19 A. I don't know why I would have done
20 this. I mean, clearly I'm conveying a lessons
21 learned and something we should think about in
22 future underwriting but why at this point in
23 time I decided to do that, I don't know.

24 I'm calling it an "AHERF memo
25 addition," I don't know what that means.

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2 done of this sort, the bond documents are
3 substantial and there are many, many tests
4 within the documents, and the way these things
5 get decided is through a negotiation process.

6 So, I, I can't say nothing privy
7 to that negotiation process, whether AHERF's
8 management thought -- had specifically
9 negotiated this point, whether it was a
10 carry-over from some other documents, I don't
11 know how that got in there and whether the
12 management team thought that was a good thing
13 or a bad thing. Maybe they had asked for a 12
14 percent in total assets and were disappointed
15 at the eight, I don't know.

16 Q. Okay.

17 (Deposition Exhibit 2196 for
18 identification, an e-mail message to Patrick
19 L. Mathis, production numbers MBIA-SUB 01011.)
20 Q. Let me show you what we've marked
21 as Exhibit 2196.

22 MR. KRUSKO: For the record, I
23 would note that Exhibit 2196 bears the Bates
24 number MBIA-SUB 01011.

25 A. Okay.

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2 Q. Let me ask you more generally: Do
3 you recall writing a AHERF memo, something
4 with the title "AHERF memo"? I'm just trying
5 to understand your reference to the
6 subheading.

7 A. I don't recall. I wrote many
8 memos on AHERF and I'm not sure to what I'm
9 referring it here.

10 Q. You and I have both written many
11 memos on AHERF.

12 The heading which appears in bold
13 is: "Standard Asset Transfer Provisions Do
14 Not Protect Us Against Large Cash Transfers."
15 Do you see that?

16 A. Yes.

17 Q. I take it that is your conclusion
18 and then you provide some support for that
19 conclusion in the passage immediately below
20 it?

21 A. Yes.

22 Q. In the last line, you have written
23 "Two lessons here: One, our standard asset
24 transfer test should incorporate a second test
25 specifically restricting cash transfers, and

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2 though, is that I'm expressing frustration
3 that there was no covenant triggered and our
4 hands were tied, in effect, because we're
5 seeking a way to trigger something so that we
6 have some leverage and nothing is getting
7 triggered; I think that's a key point here.

8 Q. It's your recollection that the
9 DVOG entities filed for bankruptcy without
10 triggering any violation of any covenant in
11 the MBIA bond documents?

12 MR. WITTEN: Objection.

13 A. Well, I, at the time of the
14 bankruptcy filing, my recollection is that it
15 was our belief that we did not have a covenant
16 breach, but my understanding subsequent to
17 that is that we actually did have a covenant
18 breach, it just wasn't presented in the
19 financial statements.

20 Q. What covenant breach or what
21 possible covenant breach are you referring to?

22 A. It's my understanding, and again,
23 this is all subsequent to the bankruptcy
24 filing, that the 1996 financial statement
25 should have indicated a different net income

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2 can't really instruct you to answer or not to
3 answer.

4 MS. HACKETT: Well, you could
5 follow his advice.

6 And she can answer, again, to the
7 extent it's not based on advice from counsel,
8 but if it's based on advice from counsel, you
9 should not answer the question.

10 THE WITNESS: I'm sorry, if it's
11 not based on advice, does that mean if it's
12 not based on things that I've heard from
13 counsel or?

14 MS. HACKETT: Correct, if it's not
15 based on what you've been told or in meetings
16 with counsel, you can answer, but if it's been
17 based on information gathered by or learned
18 from meetings with counsel, you should not
19 answer the question based upon the
20 attorney-client privilege.

21 THE WITNESS: Okay. Well, I think
22 I cannot answer the question, then.

23 Q. What covenant was possibly
24 violated as a result of this supposed
25 incorrect net income amount in fiscal year

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2 number, and had the correct number been used
3 there would have been a covenant breach at
4 that time.

5 Q. Are you referring to the FY '96
6 audited financial statements for DVOG?

7 A. Yes.

8 Q. What's your understanding as to
9 what the net income number should have been in
10 fiscal year 1996 for the DVOG?

11 MR. WITTEN: I have to object to
12 the extent that this will cause -- this
13 question invades the attorney-client
14 privilege.

15 MR. KRUSKO: Are you instructing
16 her not to answer?

17 MR. WITTEN: No, because I'm not
18 entirely sure I know what the answer is but to
19 the extent that the question, to the extent
20 that you answer the question and it requires
21 you to divulge conversations that you've had
22 with your counsel or counsel to the creditors
23 committee, then that would be attorney-client
24 privilege.

25 Since you're not my witness, I

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2 1996?

3 A. The rate covenant calculation.

4 Q. Do you have an understanding as to
5 what it should have been?

6 MR. WITTEN: Objection.

7 MS. HACKETT: That would be the
8 same objection.

9 MR. WITTEN: Same objection.

10 MS. HACKETT: Because that's, in
11 essence, the same question. So therefore --

12 MR. KRUSKO: Well, the ball's in
13 the witness' court. I think now it's based on
14 whether she has an understanding, for one
15 thing, and whether that understanding was
16 gained through conversations with counsel.

17 MS. HACKETT: I disagree with you
18 and I'm instructing her not to answer because
19 I think you're asking her the same thing.

20 Now, to the extent she thinks she
21 can answer because she learned information
22 independent from counsel, again, she knows she
23 can answer it.

24 A. I did not learn it independent of
25 counsel.

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Q. Do you recall being frustrated in the general 1997 to 1998 time frame, I guess leading up to the bankruptcy in July of '98, about the fact that there hadn't been any rate covenant violation that could have resulted in MBIA taking remedial action?

A. Yes.

Q. And did you express that frustration to anyone at MBIA?

A. I can't recall.

Q. Did you memorialize that frustration in any sort of writing, did you write a memo to files or did you write a memo to anyone else that you can recall, perhaps?

MR. WITTEN: Objection.

A. Well, in some sense, the memo I've written here is one indication. I would not have -- I would have had no reason to write a memo to the file saying I'm frustrated that they haven't breached their covenant, but in any remedial situation we are always focused on the covenant and looking for the breach because that is the only source of leverage, real leverage we have.

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identification, a memorandum dated July 23rd, 1998, production numbers MBIA 030071 through MBIA 030076.)

MR. WITTEN: 2197?

MR. KRUSKO: That's right.

MR. KRUSKO: For the record, I would note that Exhibit 2197 bears the Bates numbers MBIA 030071 through MBIA 030076.

Q. Ms. Strayer, do you recognize this document?

A. Yes.

Q. Do you recognize this document as a memorandum that you and David Stevens wrote for Dick Weill dated July 23rd, 1998?

A. Yes, I think I wrote it and David reviewed it.

Q. The subject line on the first page of this exhibit states "AHERF talking points for Fidelity visit." Do you see that?

A. Yes.

Q. What did you refer to there?

A. I am preparing talking points because, evidently, Dick Weill is going to participate in a meeting with Fidelity.

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And it also is important to us because often, when we go to speak to management and the board, we get a little more-receptive audience when we actually walk in the door and we have a covenant breach.

So it's something that is very typical for us to look for. And the fact that AHERF had the kinds of numbers they did coming out in '96 and '97, and there was nothing being breached, I'm sure I was extremely frustrated during that whole time, but did I put a memo in the file about it, no, I suspect I did not. It would have been inferred from memos similar to this.

Q. I think you alluded to this earlier, though: The covenants were established as a result of the negotiation process between MBIA and AHERF, such that once the policies were made effective and the bonds issued, there was nothing that MBIA could do to change those covenants outside of the context of a covenant violation?

A. That's right.

(Deposition Exhibit 2197 for

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Q. In this time frame, Fidelity was an investment company?

A. Yes. Fidelity typically buys many MBIA bonds, MBIA insured bonds, so they are a large bondholder.

Q. These are bonds, just to be clear, issued by MBIA so that MBIA can raise debt?

A. No. I actually was referring to -- it's possible Fidelity owns our corporate bonds.

Q. Oh.

A. But Fidelity is a large purchaser of MBIA insured bonds in the market.

Q. Thanks. I just re-read your answer, I noticed that you did say "MBIA insured bonds."

Do you have a sense as to the dollar value of the bonds owned by Fidelity in this time frame?

A. I don't.

Q. Do you recall why Mr. Weill was scheduled to visit with representatives of Fidelity in this time frame?

A. I think in this time frame because

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 2 THE VIDEO OPERATOR: Going off the
 3 record at 11:39. This is the end of tape
 4 number four.
 5 (Luncheon Recess taken: 11:39
 6 a.m.)
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 2 entities coming from the Western entities. We
 3 still had a view that the Western entities
 4 were fairly strong so we wanted to see a
 5 guarantee of some sort or a combination of
 6 obligated groups that would support the
 7 entities in the East, specifically, DVOG.
 8 Q. Some sort of binding guarantee, I
 9 take it?
 10 A. Yes, it would have had to be a
 11 binding guarantee to be worth anything to us,
 12 yes.
 13 Q. What other initial preferences did
 14 MBIA have at this time frame, in this time
 15 frame with respect to remediation?
 16 A. Again, could you repeat the time
 17 frame you're talking about?
 18 Q. Calendar 1997.
 19 A. Calendar 1997?
 20 Q. Yes.
 21 A. Well, certainly at the beginning
 22 of the year, a preference was that they
 23 preserve their cash and I don't know if you
 24 want to characterize that as a remedial issue
 25 or not.

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 2 AFTERNOON SESSION
 3 12:22 p.m.
 4 THE VIDEO OPERATOR: Beginning
 5 tape number five and returning to the record
 6 at 12:22.
 7 KARLEEN CARLSON STRAYER,
 8 resumed, having been previously duly sworn,
 9 was examined and testified further as follows:
 10 CONTINUED EXAMINATION
 11 BY MR. KRUSKO:
 12 Q. Welcome back, Ms. Strayer. Before
 13 the lunch break we were discussing remedial
 14 options, and if I understood your testimony
 15 correctly, I believe you testified that
 16 bringing in a consultant was one of MBIA's
 17 first remedial options in the 1997 time frame.
 18 A. It was one of our first remedial
 19 preferences but it wasn't an option for us.
 20 Q. What were some of the other
 21 initial remedial preferences that MBIA had at
 22 this point in time, 1997?
 23 A. I think in that time frame, one of
 24 the things we would have liked to have seen
 25 was some sort of guarantee of the DVOG

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 2 I'm sure if we could have been
 3 able to get them to agree to a day's
 4 cash-on-hand covenant we would have done so,
 5 so that's something we often look for when we
 6 do remediations.
 7 As 1997 went on, we began to have
 8 discussions with them about their plans to
 9 sell parts of the system to Vanguard and that
 10 was an attractive remedial option to us;
 11 again, I don't know if you would characterize
 12 that as "remedial" but that's something that
 13 we certainly would view as a positive; so, we
 14 had discussions about that.
 15 I think that we may have talked
 16 about, I believe, AHERF, the parent, had a
 17 foundation or somewhere in the system was a
 18 foundation that we thought had some cash in
 19 it, so we were looking at that.
 20 You know, had we had the choice,
 21 I'm sure we would have tried to get additional
 22 security. And again, I mean, without a
 23 covenant breach, we didn't have a right to do
 24 any of this. Had we had leverage and
 25 understood the full extent of the problem, we

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 2 might have been able to get some of these.
 3 And I would also add if we could
 4 have, if we could have better understood the
 5 full extent of the problem and the board had
 6 better understood the full extent of the
 7 problem, there might have been actions that we
 8 could have convinced them to take, and those
 9 could have also included sales of other assets
 10 and even at times we go seeking some sort of
 11 political support because, obviously, there
 12 were a lot of jobs on the line, these were
 13 non-profit entities, so there were a lot of
 14 constituents in the city and the state that
 15 would have an interest in the financial
 16 health.

17 And, you know, that also is a
 18 remedial option in times to finding support in
 19 the city and state.

20 Q. As of the fall of 1997, did you or
 21 any member of your staff at your direction ask
 22 AHERF for a guarantee of financial support
 23 from the Western AHERF entities to the Eastern
 24 AHERF entities?

25 A. My recollection is that we did

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 2 have a conversation like that and it revolved
 3 around the fact that around that time period
 4 there was dialogue going on with Merrill
 5 Lynch, whereby -- and we had meetings about
 6 this, as well, whereby we were being asked to
 7 take a look at a financing on the East and
 8 another financing on the West.

9 And we put a lot of thought into
 10 whether we one want to do that. And clearly
 11 the only incentive for us to do that was to
 12 somehow get support out of the East, so our
 13 conversations centered around how do we get
 14 that support from the West and how much would
 15 we have to insure to make that an attractive
 16 alternative to management and the board at
 17 AHERF.

18 Q. Going by Exhibit 2197, the first
 19 page of the "AHERF Actions chronology" that
 20 you've sketched out, page 030072, the first
 21 instance of Merrill Lynch I see on this page
 22 is in November 1997, correct?

23 A. Yes.

24 Q. So I guess what I'm asking you is,
 25 at any point prior to the 1997 time frame, did

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 2 you or anyone else at MBIA, based on your
 3 instruction, request that AHERF make a
 4 guaranty, a financial guaranty that resources
 5 were going to be directed from the Western
 6 AHERF entities to support the Eastern AHERF
 7 entities?

8 MR. WITTEN: Objection, that's the
 9 same question that she just answered.

10 MR. KRUSKO: She hasn't answered
 11 it.

12 A. You're saying prior to 1997?

13 Q. Prior to 1997, to November 1997?

14 A. To November 1997 or prior to 1997?

15 Q. Prior to November 1997.

16 A. Prior to November '97, did anyone
 17 ask for a guaranty?

18 Q. Yes.

19 A. I, I don't have a specific
 20 recollection of that.

21 Q. Okay. And did you?

22 A. Did I ask for it?

23 Q. Yes.

24 A. I don't recall asking for it.

25 Q. Did anyone on your staff ask for

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 2 it at your direction?

3 A. It's possible; I don't recall.

4 Q. Again, up to this point in time,
 5 November of 1997, did you or anyone on your
 6 staff at your direction request from AHERF
 7 that it undertake an effort to preserve cash
 8 through, for example, a day's cash on-hand
 9 covenant that would be binding on AHERF?

10 A. I don't recall. I'm quite
 11 confident we did not, because, again, it is
 12 not, in my experience, it's not likely that a
 13 management team would give us a covenant for
 14 nothing; I mean, we could ask for it but they
 15 would have no incentive to put a new covenant
 16 that they potentially could breach in their
 17 bond documents. I would, I would, frankly,
 18 question their judgment, if they agreed to
 19 such a thing.

20 Q. Up to this point in time, November
 21 1997, did you or did any member of your staff
 22 at your direction request that AHERF, the
 23 parent, or AHERF, the foundation, make a
 24 binding pledge of cash or other resources to
 25 the DVOG entities?

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2 talking to Coopers about how they should treat
3 a line item on the income statement or balance
4 sheet, that wouldn't be something we did.

5 Q. Right, but in this time frame, you
6 and others at MBIA are looking for a covenant
7 violation which will give MBIA certain
8 remedial rights, correct?

9 A. Right. But it's not year-end. I
10 mean, this memo is dated March; their year end
11 is not till June; their financial statements
12 won't come out till three, four months after
13 that; so, they're -- we just, we wouldn't have
14 a reason in March of '98 to be contacting the
15 CPAs about what the June statements might look
16 like and whether or not there's a default.

17 Q. Do you remember, though, when the
18 covenant compliance -- withdrawn.

19 Do you remember any of the
20 covenant compliance reporting dates with
21 respect to the DVOG entities?

22 A. I don't remember. I know our
23 standard requirement is that they come out
24 along with the audits, they would be based on
25 the audits.

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2 Q. So in certain cases, MBIA had
3 standard requirements with respect to, at the
4 very least, reporting requirements; you just
5 used the term "standard requirement"?

6 A. Yes, actually, because reporting
7 requirements are an attachment to our
8 commitment letters, so there is a piece of
9 paper that shows reporting requirements that
10 gets attached to commitment letters; it's used
11 on virtually all of our commitment letters,
12 unless there's a specific negotiation that
13 would otherwise be made for those particular
14 requirements.

15 Q. Do you recall whether such a
16 re-negotiation had occurred with respect to
17 the DVOG entities?

18 A. Well, I only recall that earlier
19 this morning we talked about the fact that the
20 -- that we had agreed to allow them to give
21 their financial statements later than -- we
22 had provided an amendment to the initial
23 documents; so, yes, I guess we had agreed to a
24 change from the initial documents.

25 Q. I see. I think you're referring

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2 to your testimony yesterday morning; that,
3 subsequent to --

4 A. Is it yesterday morning?

5 MS. HACKETT: Yes.

6 Q. Yes, believe it or not.

7 A. Okay.

8 Q. Subsequent to the DVOG offering in
9 October of 1996 there was this renegotiation
10 of the reporting requirements?

11 A. Yes.

12 Q. Okay. With respect to page 030075
13 of Exhibit 2197, the April 1998 entry, I take
14 it you and others employed by MBIA met with
15 Mr. Abdelhak and with certain AHERF board
16 members on the same day?

17 A. Yes.

18 Q. And do you recall at that meeting
19 Mr. Abdelhak rejecting the idea of a
20 turn-around consultant being brought in?

21 A. Yes.

22 Q. And was this the first instance
23 that you can recall of anyone at MBIA making a
24 pitch to Mr. Abdelhak that a turn-around
25 consultant be brought in?

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2 A. This is the first time we had the
3 opportunity to personally sit down in front of
4 him and have a discussion like this. As I
5 mentioned, our earlier meeting, he did not
6 show up for.

7 Q. But you don't happen to recall one
8 way or the other whether that occurred or not,
9 right?

10 A. The meeting that --

11 Q. The meeting that he didn't show up
12 for?

13 MS. HACKETT: Objection, asked and
14 answered extensively.

15 MR. KRUSKO: I know.

16 MS. HACKETT: Then why ask her
17 again?

18 MR. KRUSKO: Because she's looking
19 now at something, at least narrowing down a
20 monthly time frame for a meeting that might
21 have helped her recall this meeting with
22 Mr. Abdelhak, and I think it's actually a
23 significant event, which is why I asked.

24 I know this is a repetitive
25 question; thank you for bearing with me, but I

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2 think it's an important issue in the case.

3 Q. Do you recall, in addition to
4 Mr. Barnes and Mr. Gumberg, meeting with
5 anyone else at this April 1998 meeting, any
6 other board members, I should say?

7 A. There may have been, there may
8 have been more, I don't recall. Again, I'm
9 sure we did a memo about it but I don't
10 remember right now who was at that meeting.

11 Q. Is this the first time that you
12 recall anyone at MBIA pitching the notion of a
13 turn-around consultant being brought in for
14 the DVOG situation to members of the AHERF
15 board of trustees?

16 A. I believe it was.

17 Q. Did these board members make any
18 representations to you as to what they were
19 going to say to other board of trustees
20 members with respect to this notion of
21 bringing in a turn-around consultant?

22 A. I don't recall.

23 Q. Did you or did anyone else at your
24 direction follow-up with any other board
25 members, subsequent to this meeting, to find

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2 Ms. Strayer, do you recognize

3 Exhibit 1667 as a site visit memo specific to
4 this April '98 meeting with representatives of
5 AHERF concerning the situation at the DVOG?

6 A. Yes.

7 Q. Does this refresh your
8 recollection that this meeting took place
9 April 29th, 1998?

10 A. Let's see, April 29th... yes.

11 Q. And you participated in the three
12 meetings that are listed here on the first
13 page of the exhibit, a 9 a.m. meeting, a 10
14 a.m. meeting and a 12 p.m. meeting?

15 A. Yes, I'm not remembering right now
16 a 10 a.m. meeting but I'm clearing remembering
17 the 9 and the 12.

18 Q. When you say you're clearly
19 remembering the 9 a.m. meeting, if you turn to
20 the second page which I believe provides a
21 summary of that meeting:

22 Do you recall at this meeting
23 Mr. Abdelhak blaming the difficult revenue
24 environment for the losses of the DVOG?

25 A. Yes.

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2 out whether the parent board as a whole was
3 receptive to the idea of bringing in a
4 turn-around consultant?

5 A. I don't remember that we
6 specifically made that request, no.

7 Q. Do you know why you didn't?

8 A. As I recall, we were having -- we
9 had a consultant helping us and advising us
10 who was well-known in the Philadelphia area,
11 and we were working -- I believe as a result
12 of this meeting we were having a dialogue with
13 the board members about the need to have or
14 not have a university as part of an academic
15 medical center, have a university actually
16 owned by the academic medical center.

17 So there were ongoing
18 conversations during this period of time;
19 whether or not we specifically requested
20 someone to speak to the full board about a
21 consultant, I, I don't recall.

22 Q. Let me show you what we previously
23 marked as Exhibit 1667, and if you could keep
24 that other exhibit at hand, as well, I think
25 these two coincide in some respects.

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2 Q. And did you agree with that
3 statement Mr. Abdelhak made?

4 A. I agree that -- I would have
5 agreed that that was one of the factors.

6 Q. At this meeting, Mr. Abdelhak
7 apparently estimated a 2- to 300 million
8 dollars loss for fiscal year 1998; do you see
9 that reference?

10 A. Yes.

11 Q. Do you recall him making that
12 representation?

13 A. Yes.

14 Q. Do you recall being concerned at
15 the time about that representation?

16 A. Yes.

17 Q. The middle passage states that
18 Mr. Abdelhak had revised AHERF's strategy and
19 admits that previous strategies have
20 contributed to the current losses; do you see
21 that?

22 A. Yes.

23 Q. Did you take away from this
24 meeting with Mr. Abdelhak the impression that
25 he viewed AHERF's pursuit of an integrated

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2 delivery system strategy largely as a failure
3 at this point in time?4 A. I don't know that he specifically
5 made that comment, but they clearly were going
6 to shift their strategy, to some extent.7 Q. Did you believe at this time
8 frame, possibly as a result of this meeting,
9 that AHERF's strategy had largely failed?10 A. Certainly, if by "strategy," you
11 mean the rapid growth strategy, that clearly
12 had not been either a good strategy or had not
13 been executed well, one or the other.14 Q. Do you know one way or the other
15 or do you have a view one way or the other
16 whether it was a good strategy or one that was
17 just executed poorly by AHERF's management?18 A. I would suspect it would be
19 components of both.20 Q. Would you turn with me to page
21 030212. This is a meeting -- this is a
22 summary, rather, of a meeting that you,
23 Mr. Stevens, Ms. Tain, Mr. Reilly and Bob
24 Cathcart had with David Barnes and Ira
25 Gumberg, is that right?

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2 A. I'm sure our view was that the
3 earlier they had brought in a consultant, the
4 greater their chances would have been for
5 executing a successful turnaround, yes.6 Q. I guess what I'm asking you is
7 whether you came away from this meeting with
8 these two board members with the view that,
9 had MBIA met with one or more of the board
10 members at some point in time, prior to April
11 1998, and involved the board more in
12 remediation efforts of the situation at the
13 Delaware Valley Obligated Group could have
14 been different at that point in time?15 A. I don't know that we necessarily
16 could have drawn the conclusion from this
17 meeting because, even though the board
18 appeared to be more open, they did not
19 immediately go out and hire consultants.20 So, I think what the board and
21 MBIA did not have a full appreciation for,
22 that could have made a difference, is how
23 serious the extent of financial difficulties
24 were, and I don't know that any of us
25 understood even at this late date how bad

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2 A. Yes.

3 Q. Here it states "The board members
4 appear to be relative open-minded about
5 re-thinking strategy" at the very top,
6 correct?

7 A. Yes.

8 Q. And in your memo to Mr. Weill,
9 Exhibit 2197, in referring to this meeting,
10 you stated "board members appear to be much
11 more open to our discussions about the need
12 for a consultant." Do you see that?

13 A. Yes.

14 Q. When you left this day of meetings
15 with AHERF in late April 1998, did you take
16 away the feeling that the situation at that
17 point in time at the DVOG could have been
18 different if the board had been involved
19 earlier in the remediation efforts with
20 respect to the DVOG?

21 A. In what respect?

22 Q. Well, for one, that a consultant
23 could have been brought in at some point in
24 time prior to late April 1998 to help the DVOG
25 work out its problems.

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2 things really were.

3 Q. You stated at the outset of your
4 testimony just now, "I don't know that we
5 necessarily could have drawn the conclusion
6 from this meeting," and then you continued.7 I'm not asking to speculate
8 whether you personally could have or not; I'm
9 just asking whether you recall concluding
10 that, had MBIA involved the AHERF board
11 earlier with respect to remediation efforts,
12 that the situation at the DVOG could have been
13 different?14 A. No, I don't recall ever drawing
15 that conclusion.16 Q. Do you know why, subsequent to
17 this meeting, the full AHERF board did not
18 retain a management consultant in a timely
19 fashion?

20 A. I do not.

21 Q. Did you view that as a problem?

22 A. We would have liked for them to
23 retain a consultant; so, you know, they
24 clearly disagreed with our view about the
25 urgency of bringing in a consultant.

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Q. On page 030212 of Exhibit 1667, there's a passage summarizing discussions with David Barnes; do you see that in the middle?

A. That starts with "David Barnes"?

Q. Yes.

A. Okay.

Q. Do you recall coming away from this meeting with the impression that Mr. Barnes was generally happy with the job that AHERF management was doing up to this point in time?

A. I think we came away with the impression that David Barnes felt that the recent actions that management had taken were a very positive step, and I believe we remained concerned that David wasn't understanding fully the extent of the problems.

Q. Did you personally or did anyone else on your behalf undertake any effort to drive those points home with Mr. Barnes?

A. Yes, that was the whole purpose of the meeting.

Q. No. I'm sorry, perhaps it wasn't

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did do what we had promised the board members, which was we prepared for them a list of premier hospitals that did not have medical schools.

So there was a follow-up with the trustees after this meeting; specific comments, other than the general medical school issue, I can't recall at this point in time, but I definitely know there was follow-up.

Q. Was any action taken, if you know, with respect to this proposal of selling the combined medical school?

A. I am not aware of any action that was taken, no.

Q. So you essentially provided the board with some information about the idea of selling the combined medical school and it didn't go anywhere?

A. It didn't go anywhere. I mean, at this point in time, we're two months away from the bankruptcy filing, they're just about ready to let Sherif Abdelhak go. There's a lot going on at the organization right now; so

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a clear question. I meant, subsequent to the meeting, I think you testified that you left the meeting thinking that David Barnes essentially sort of didn't get what MBIA was trying to communicate.

And I'm just asking you whether you or anyone else at your instruction followed up with Mr. Barnes to make another attempt at communicating to him MBIA's concerns?

A. We did communicate with them further. One of the things that had been sort of a theme throughout this day of discussions was that we had come to the conclusion, and I think this was, in part, for the advice of our consultant, that the medical schools were an issue and that perhaps if they decided to separate themselves from the medical schools, that that might be a positive.

And so, part of our dialogue here was to discuss the ability of AHERF to retain its reputation in Philadelphia without necessarily owning the medical schools.

So subsequent to this meeting, we

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whether they had follow-up discussions at their board meetings about the sale of the medical schools, I can't say, but we, you know, it wasn't too long after this thing sort of spun out of control.

Q. I guess that's sort of my point. I mean, this is about 15, 14 months into the remediation efforts after the first downgrade and after the first warning signs?

A. Yes.

Q. And I'm just curious to know whether you think this meeting, this very important meeting with the CEO of the organization and two board members --

A. Yes.

Q. -- occurred too late in the process?

A. I think the reason it occurred, when it did, is that none of us, and I can't speak for the board members but I can speak for myself, I think none of us in May of 1998, while we understood that this situation was very, very serious, I don't know that we understood that the hospital system was two

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1 KARLEEN CARLSON STRAYER
2 months away from, from bankruptcy.
3 And to my earlier point: Had the
4 financial statements indicated the losses that
5 subsequently we realized should have been
6 presented, we would have had a dramatically
7 different response in 1996, as I believe the
8 board would have also.

9 So was this late? Yes. Was it
10 because we weren't paying attention? No. It
11 was because we did not have the full
12 information that we needed.

13 Q. But at this point in time, this
14 credit was an 8C credit according to the MBIA
15 internal rating.

16 A. Yes.

17 Q. And had been for roughly two
18 months.

19 A. Yes.

20 Q. And there's no lower to go on the
21 MBIA internal rating than 8C in the absence of
22 payments being made by MBIA?

23 A. Well, in the absence of a payment
24 default on the part of our creditor.

25 Q. Right, right.

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1 KARLEEN CARLSON STRAYER
2 Q. I was just asking you to draw, not
3 necessarily from this document, from just your
4 recollection of this meeting.

5 And I guess I'd just like to know
6 very briefly: Does your testimony, drawing
7 from your memory, not from this document,
8 change in any way with respect to this
9 question, if you draw from your memory?

10 A. Well, I think our overall
11 impression of the meeting was that the
12 trustees did not share the same level of
13 concern over the financial issues, and seemed
14 to be more optimistic about recent efforts to,
15 you know, downsize, in terms of personnel, to
16 complete a sale to Vanguard.

17 There were, there were activities
18 that were being undertaken to improve the
19 financial position and our view was the
20 trustees put more faith in those activities
21 than we did.

22 On the other hand, having met with
23 trustees at hospital organizations, many times
24 they, of course, aren't going to sit in a room
25 full of creditors and express dismay over

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1 KARLEEN CARLSON STRAYER
2 A. Credit, excuse me.
3 Q. Do you recall any statements that
4 Mr. Gumberg might have made with respect to
5 his view of the job that management was doing?

6 A. I don't recall.

7 Q. The third-to- last bullet with
8 respect to this meeting states that "The
9 trustees agree with Sherif that the
10 reimbursement problems are the significant
11 factor, depressing revenues and causing the
12 losses." Do you see that?

13 A. Yes.

14 Q. Just to be clear, does that
15 statement reflect the fact that Mr. Barnes and
16 Mr. Gumberg believed that the revenue problems
17 were the major factor, the most important
18 factor, depressing revenues and causing the
19 losses?

20 A. It simply says they are the
21 significant factor; so, they apparently felt
22 that it was, was important. I don't know if
23 they considered this the "most important" but
24 that was clearly something they were concerned
25 about.

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1 KARLEEN CARLSON STRAYER
2 their senior management team, no, I don't
3 believe I've ever seen that happen.

4 Q. Did you discuss with either
5 Mr. Barnes or Mr. Gumberg the amount of
6 information that had been provided by AHERF to
7 MBIA relative to the amount of information
8 that had been provided by senior management at
9 AHERF to the AHERF board of trustees?

10 A. I don't recall having that
11 conversation.

12 Q. Okay. Why didn't you raise with
13 Mr. Barnes and Mr. Gumberg the issue of the
14 information that you had received if you felt
15 that there was a gap in their understanding of
16 the financial situation of the DVOG relative
17 to your understanding of the financial
18 situation of the DVOG?

19 A. Well, if I'm understanding the
20 question, we weren't, we weren't necessarily
21 concerned that they weren't being provided
22 with the appropriate financial reports.

23 I believe it had -- our difference
24 had to do with the way we were interpreting
25 things and the way we were viewing the

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1 KARLEEN CARLSON STRAYER
 2 remember if I answered it. I don't recall.
 3 Q. You don't recall one way or the
 4 other whether you personally did it?
 5 A. Whether I personally made that
 6 point to senior management to, to be honest,
 7 it is in some ways a stunningly obvious point
 8 so I don't know if I would have made that
 9 point to them.
 10 Q. At the top of the second page of
 11 this exhibit, reference is made to legal
 12 review of bond documents before an MBIA bond
 13 insurance policy is provided; do you see that?
 14 A. Yes.
 15 Q. Do you have a general
 16 understanding of the text that appears below?
 17 A. Yes.
 18 Q. And what's that understanding, I'm
 19 just trying to gain a sense as to what this
 20 passage is trying to convey?
 21 A. Well, we're discussing the issue
 22 that was being debated at the creditors
 23 committee about the collateral within our bond
 24 documents, and that would affect our recovery.
 25 Q. At the top of the third page of

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1 KARLEEN CARLSON STRAYER
 2 paragraph is that it is -- in some ways, we
 3 were incredulous that you could have a system
 4 like this go into bankruptcy without violating
 5 any covenants at all and that was a concern to
 6 us.
 7 Q. But given the need for early
 8 intervention with respect to troubled credits,
 9 isn't it more significant what could have
 10 happened in 1996 or 1997 in terms of
 11 remediation efforts as opposed to --
 12 A. Oh, absolutely, no question about
 13 it.
 14 Q. Below is mentioned "discussions
 15 with Mr. Abdelhak concerning consultants"; do
 16 you see that?
 17 A. Yes.
 18 Q. You met with Mr. Abdelhak in late
 19 April of 1998, and I'd like to know whether
 20 you recall him discussing bringing in
 21 consultants who would write reports as opposed
 22 to doing hands-on operational tasks, whatever
 23 that might mean.
 24 A. Yes, I believe that we discussed
 25 the fact that they had brought in McKenzie,

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1 KARLEEN CARLSON STRAYER
 2 the document, 030080, it states: "It is
 3 instructive to note that DVOG declared
 4 bankruptcy without violating a single
 5 covenant. The measurement of its covenant
 6 compliance was based on audited financial
 7 statements which had not yet been issued at
 8 the time of the bankruptcy filing." Do you
 9 see both of those statements?
 10 A. Yes.
 11 Q. Is it your understanding that the
 12 second statement refers to fiscal year 1998
 13 audited financial statements for the DVOG?
 14 A. That's how I would read that, yes.
 15 Q. And why is that a significant fact
 16 with respect to covenant violations that could
 17 have occurred at DVOG?
 18 MR. WITTEN: Objection to form.
 19 A. Could you repeat the question?
 20 MR. KRUSKO: Sure, would you repeat
 21 that.
 22 (Record read.)
 23 A. I don't know that there's a lot of
 24 significance put on that comment. I think the
 25 more important point that's being made in this

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1 KARLEEN CARLSON STRAYER
 2 and McKenzie, to my knowledge, is not
 3 experienced in turning around hospitals, so we
 4 were disappointed that they had chosen
 5 McKenzie as opposed to someone like the Hunter
 6 Group or Quorum.
 7 Q. Do you recall learning at some
 8 point prior to the bankruptcy filing that
 9 AHERF had brought in McKenzie to try to turn
 10 things around for DVOG?
 11 A. I believe they retained McKenzie,
 12 actually. To help with issues that -- with
 13 the Western entities, which was another
 14 surprise to us; that the consultant they did
 15 bring in didn't appear to be responsible for
 16 the DVOG entities.
 17 Q. Do you know whether McKenzie
 18 reviewed in any way the operations of AHERF's
 19 Eastern entities?
 20 A. I'm not aware of any review that
 21 they did of the Eastern entities.
 22 Q. Did you personally or anyone at
 23 your direction attempt to make -- to contact
 24 the board and advise them that rather than
 25 bringing McKenzie to take a look at the

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1 KARLEEN CARLSON STRAYER
2 Western entities, AHERF should bring in some
3 sort of other consultant to look at the
4 Eastern entities?

5 A. I don't recall specifically that
6 we had that conversation. When we met with
7 Mr. Barnes and Mr. Gumberg, it's possible that
8 it came up.

9 Q. But you don't know one way or the
10 other?

11 A. I don't recall.

12 Q. The statement again on this last
13 page, "some remediations fail." Do you agree
14 with that statement?

15 A. "Some remediations fail"?

16 Q. Yes.

17 A. Well, when you have a bankruptcy
18 filing, I think at MBIA we consider that a
19 failure.

20 Q. And is that a fact just as it's a
21 fact that -- well, withdrawn.

22 At the bottom of this section, it
23 stated: "While IPM will continue its program
24 of early detection and intervention for
25 weakening credits, the AHERF experience is a

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1 KARLEEN CARLSON STRAYER
2 covenant failure but also potentially a very
3 substantial negative number on the net income
4 line.

5 And the fact that the bonds had
6 just been issued in June of 1996 and a few
7 months later would have shown not only a rate
8 covenant failure but also a negative bottom
9 line and 70-plus million dollar asset transfer
10 would have been a real wake-up call, would
11 have led to, I'm sure, a stronger board
12 reaction than what actually occurred; would
13 have probably led to, you know, newspaper
14 reports on this occurrence.

15 In my almost 17 years of
16 experience in healthcare, I've never seen a
17 situation where public bond issue is done and
18 a few months later you have massive losses and
19 a covenant default; I've never seen that.

20 So it would have been news in the
21 industry; it would have been news in
22 Philadelphia, certainly; the doctors would
23 have gotten involved; so I believe there would
24 have been a lot of things that could have
25 happened in late 1996, if those statements had

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1 KARLEEN CARLSON STRAYER
2 sobering reminder of the real-world limits of
3 credit remediation." Do you see that?

4 A. Yes.

5 Q. And that reflects the fact that,
6 once bond insurance is provided, MBIA is
7 powerless to unilaterally change the
8 applicable bond covenants?

9 MS. HACKETT: Objection, asked
10 numerous times but you may answer.

11 A. I believe that that is one part of
12 it. I mean, certainly if we had had financial
13 statements in 19 -- for fiscal 1996 that
14 showed a rate covenant failure, we would have
15 been able to effect change better and
16 potentially had a successful remediation with
17 AHERF.

18 Q. And what's your basis for that
19 statement?

20 A. Because my basis for that
21 statement is that my understanding is that
22 the, the net income position of the 1996
23 financial statements was presented incorrectly
24 in the audit and, if it had been correctly
25 presented, there would have been a rate

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1 KARLEEN CARLSON STRAYER
2 shown the loss that it should have.

3 Q. Okay. But that's just speculation
4 on your part, right; you don't have any basis
5 for knowing whether there was a GAAP violation
6 in any of the AHERF audited financial
7 statements?

8 A. Could you repeat the question?

9 Q. Sure. Do you have any personal
10 knowledge of any GAAP violation in any of
11 AHERF financial statements?

12 MS. HACKETT: I'm going to object
13 to the extent that your knowledge is based
14 upon information that you've learned from
15 counsel or in the creditor's committee and, if
16 that is the source of your information, I
17 would instruct you not to answer.

18 THE WITNESS: Okay.

19 A. Then, I can't answer.

20 Q. Do you personally know of any GAAP
21 violation specifically to the DVOG financial
22 statements, audited financial statements?

23 MS. HACKETT: Same instruction.

24 MR. KRUSKO: Okay.

25 Q. Do you know of any audit failure,

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1 KARLEEN CARLSON STRAYER
2 do you have personal knowledge of any audit
3 failure by Coopers & Lybrand?
4 A. Do I have personal knowledge?
5 Q. Yes.
6 A. Depends on by "personal knowledge"
7 do you mean have I, have I done a review of
8 the statements or workpapers myself?
9 Q. Yes.
10 A. No, I have not.
11 Q. Do you have any personal knowledge
12 of any failure but Coopers & Lybrand to comply
13 with GAAS, Generally Accepted Accounting
14 Standards?
15 A. In the sense of have I looked at
16 their workpapers to determine whether or not
17 they've complied with GAAP, no, I did not.
18 Q. With GAAS?
19 A. With GAAS?
20 Q. Yes, Generally Accepted Accounting
21 Standards?
22 MR. WITTEN: Auditing Standards?
23 MR. KRUSKO: Auditing Standards,
24 excuse me.
25 A. No, I don't have personal

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1 KARLEEN CARLSON STRAYER
2 experience with that.
3 Q. Outside from the representations
4 from counsel, do you have any personal
5 knowledge of any failure by Coopers & Lybrand
6 to comply with its contract with AHERF and/or
7 its affiliates?
8 A. I'm sorry, could you repeat the
9 question again?
10 MR. KRUSKO: Sure.
11 (Record Read.)
12 A. I do not.
13 Q. Do you have any personal knowledge
14 by Coopers & Lybrand to expose AHERF's
15 deteriorating financial condition, violations
16 of various dec covenants, deficient financial
17 controls and AHERF senior officials financial
18 manipulations?
19 A. I do not.
20 Q. Do you have any personal knowledge
21 as to which trustees, if any, of AHERF and/or
22 its affiliates were uninformed about the true
23 state of the financial condition of AHERF and
24 or its affiliates?
25 A. Define "true state."

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1 KARLEEN CARLSON STRAYER
2 Q. Well, I believe you've testified
3 that it's now your belief that the audited FY
4 '96 financial statements for the DVOG were
5 misstated?
6 A. Yes.
7 Q. Do you have any personal knowledge
8 as to which trustees were uninformed about
9 this alleged misstatement at the time the
10 statements were issued?
11 A. I'm not aware of that any of them
12 were informed.
13 Q. Do you have any personal knowledge
14 as to the steps, if any, any trustees of AHERF
15 and/or its affiliates would, in fact, have
16 taken if they had additional information about
17 the financial condition of AHERF and/or its
18 affiliates at an earlier point in time?
19 MR. WITTEN: Objection, asked and
20 answered, I think.
21 MS. HACKETT: And your question was
22 actions the trustees would have taken if they
23 had known earlier? Objection, lack of
24 foundation, but you can answer.
25 MR. KRUSKO: And again, I'm asking

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1 KARLEEN CARLSON STRAYER
2 for your personal knowledge.
3 A. I would only look at their
4 behavior in 1998 when they became aware of the
5 extent of the problems, when they asked Sherif
6 to resign, and the various activities they
7 undertook at that time as somewhat indicative
8 of what they might have done earlier had they
9 known the extent of the problems.
10 Q. But I believe you've also
11 testified that AHERF trustees decided not to
12 pledge the assets of AHERF's Western entities
13 to support the Eastern entities, so, in fact,
14 there would have been no difference in the
15 eventual outcome, correct?
16 MR. WITTEN: Objection.
17 A. Absolutely not, I don't agree with
18 that statement at all.
19 Q. Do you have any personal knowledge
20 of any steps that any trustees of AHERF and/or
21 its affiliates could have taken that would, in
22 fact, have halted AHERF's financial demise?
23 A. At what point in time?
24 Q. At any point in time from the time
25 of the DVOG bond offering up to the

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A. No.

Q. Is it your belief that the time frame of the bankruptcy auction process had a negative impact on the amount of recovery MBIA was able to obtain?

A. I don't know that I've ever analyzed that. It was a short time frame; on the other hand, hospitals were running out of cash and there was -- I think some of the speed with which this was being done was because the senior management at DVOG did not have sufficient cash to keep the doors open and there were discussions about potentially closing the doors to all the hospitals.

Q. Who at MBIA was involved with you in the post bankruptcy filing remediation process?

A. The two individuals really driving this initiative were David Stevens and Pat Mathis.

MR. KRUSKO: I don't have any further questions.

MS. HACKETT: We will read the transcript. Do you have anything further?

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MR. WITTEN: Nothing further.

MS. HACKETT: We will read the transcript, please.

THE VIDEO OPERATOR: This concludes the videotaped deposition of Karleen Strayer on October 9th, 2003. The time is 5:32 p.m. and this is the end of tape number seven.

(Time noted: 5:32 p.m.)

KARLEEN CARLSON STRAYER

Subscribed and sworn to before me this ____ day of _____, 2003.

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STATE OF NEW YORK) Pg__of__Pgs

ss:

COUNTY OF NEW YORK)

I wish to make the following changes, for the following reasons:

PAGE LINE

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

I, PHYLISS SALIMBENE, a Registered Professional Reporter and Notary Public within and for the State of New York, do hereby certify:

That KARLEEN CARLSON STRAYER, the witness whose continued deposition is hereinbefore set forth (pages 274 through 581) was previously duly sworn, and that such continued deposition is a true record of the testimony of said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2003.

PHYLISS SALIMBENE, RPR

Sunstein Dep.

In The Matter Of:

*AHERF v.
PRICEWATERHOUSECOOPERS LLP*

*LEON C. SUNSTEIN, JR.
May 6, 2004*

LEGALINK MANHATTAN
420 Lexington Avenue - Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171

SUNSTEIN, JR., LEON C. - Vol. 1



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1 Leon C. Sunstein, Jr.
 2 A. Right.
 3 Q. Okay.
 4 A. I assume I did, but I cannot -- I
 5 cannot remember looking at this statement.
 6 Q. After you were no longer a Trustee
 7 of the big AHERF Board, did you remain a
 8 Trustee of some of the Boards that were
 9 affiliated --
 10 A. I was --
 11 Q. I'm sorry. Can you let me finish my
 12 question.
 13 A. I'm sorry. Excuse me.
 14 Q. That's all right. It makes it
 15 easier for the court reporter. And, frankly,
 16 I was stumbling over my words, so let me
 17 rephrase.
 18 After you were no longer a member of
 19 the AHERF Board of Trustees, did you remain a
 20 Trustee of some of the Boards of affiliated
 21 entities within the AHERF system?
 22 A. Well, I was on the Hahnemann Board,
 23 and I forget the names of the Board. But I
 24 was in the East, and I stayed there.
 25 Q. Meaning that you were on Boards for

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1 Leon C. Sunstein, Jr.
 2 eastern entities; is that what you mean?
 3 A. Yes. Right.
 4 Q. And I wanted to ask you, during your
 5 entire tenure with the AHERF Board and all of
 6 the other affiliated Boards that you may have
 7 been on, you believed you were exercising your
 8 fiduciary duty as a Trustee; correct?
 9 A. Yes.
 10 Q. To the best of your ability;
 11 correct?
 12 A. Yes.
 13 Q. Do you recall knowing during the
 14 time that you were on the AHERF Board that the
 15 independent outside auditors for AHERF was the
 16 firm of Coopers & Lybrand?
 17 A. Yes, I thought it was Coopers.
 18 Q. Do you recall ever meeting anyone
 19 who was part of the audit team from Coopers &
 20 Lybrand?
 21 A. No, I don't remember meeting any.
 22 The reason I hesitate, I was on the Board of
 23 Hahnemann earlier, and I met some of the
 24 auditors. But, this was before the merger.
 25 Q. Do you know who the --

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1 Leon C. Sunstein, Jr.
 2 A. But I -- I don't even remember what
 3 firm it was.
 4 Q. That was my next question. Do you
 5 recall what firm --
 6 A. No, I don't remember what firm
 7 Hahnemann had.
 8 Q. Prior to the acquisition --
 9 A. That's right.
 10 Q. -- right?
 11 A. Probably changed, anyway.
 12 Q. Do you recall in general terms that
 13 each year the Audit Committee would present to
 14 the Board as a whole the audited financial
 15 statements for approval by the Board as a
 16 whole of the audited financial statements?
 17 MR. FRIESEN: Objection.
 18 You mean the AHERF Board?
 19 MS. MEADEN: Yes, I do.
 20 A. I don't remember that being done,
 21 but expect it was. But, I don't remember
 22 that.
 23 Q. Okay. Now, as a member of the AHERF
 24 Board, did you have an understanding that
 25 there were outside professionals, such as

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1 Leon C. Sunstein, Jr.
 2 lawyers and independent auditors, who were
 3 there to assist the Board members in
 4 exercising their fiduciary duties?
 5 MR. FRIESEN: Objection.
 6 A. To assist the Board members?
 7 Q. To perform services for the Board or
 8 for the entity.
 9 MR. FRIESEN: Objection.
 10 A. The answer is, I don't remember
 11 that.
 12 Q. Do you recall -- let me back up.
 13 Are you familiar with the term in
 14 auditing parlance "clean opinion"?
 15 A. I can't give you a definition, but I
 16 have an idea what you are talking about.
 17 Q. Why don't you explain to me what you
 18 understand.
 19 A. Well, without -- some opinions come
 20 down with a lot of footnotes, and there would
 21 be a question on those.
 22 Q. I'm sorry?
 23 A. There could be a question on those,
 24 whether it gives you a clean opinion.
 25 Q. Do you recall during your time as a

30 (Pages 114 to 117)

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1 Leon C. Sunstein, Jr.
 2 member of the AHERF parent Board that AHERF
 3 ever received something other than a clean
 4 opinion on its audited financial statements?
 5 A. No, I don't recall.
 6 Q. And, again, you were aware during
 7 your tenure as a Trustee at the AHERF parent
 8 Board that there was an Audit Committee of the
 9 Board; correct?
 10 A. Yes.
 11 Q. And was it your understanding that
 12 the Audit Committee was responsible for
 13 interacting with AHERF's outside auditors with
 14 respect to the work that was being done to
 15 audit the financial statements?
 16 A. The Audit Committee was, yes.
 17 Q. Yes.
 18 A. Yes.
 19 Q. And do you recall if you relied on
 20 the Audit Committee as a Trustee of the parent
 21 Board to work with the auditors and to address
 22 any concerns that the auditors may have on the
 23 financial statements that were presented to
 24 them for review?
 25 A. I would take -- excuse me. I would

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1 Leon C. Sunstein, Jr.
 2 take that for granted.
 3 Q. Based on your experience as a broker
 4 and your experience on other not-for-profit
 5 Boards, did you have any expectations as to
 6 the types of issues that Coopers & Lybrand, as
 7 AHERF's outside auditors, should bring to the
 8 attention of the Audit Committee?
 9 A. I can't remember that now, having
 10 any.
 11 Q. Having any?
 12 A. I don't say I didn't or did. I
 13 don't remember.
 14 Q. Do you recall a time when the AHERF
 15 Board, after the bankruptcy, made a decision
 16 not to continue to retain the services of
 17 Pricewaterhousecoopers, which became the
 18 successor to Coopers & Lybrand?
 19 A. I wasn't on that Board.
 20 Q. No, I understand. But you --
 21 A. I wasn't involved.
 22 Q. And you don't recall ever hearing
 23 about that?
 24 A. No, I...
 25 Q. Do you recall there being a time

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1 Leon C. Sunstein, Jr.
 2 after the bankruptcy filing where a press
 3 release was issued stating that AHERF's 1997
 4 audited financial statements could no longer
 5 be relied upon?
 6 A. I don't remember that.
 7 Q. Do you recall during your tenure as
 8 a member of the AHERF Board ever hearing that
 9 Coopers & Lybrand had raised questions about
 10 the accuracy or integrity of AHERF's financial
 11 statements that had been presented to them for
 12 audit?
 13 MR. FRIESEN: Objection.
 14 A. I don't remember.
 15 MS. MEADEN: Thank you, sir.
 16 Those are all the questions.
 17 A. (Continued.) I don't remember that.
 18 MS. MEADEN: Those are all the
 19 questions I have for you this afternoon.
 20 MR. FRIESEN: I just have one
 21 set of followup questions.
 22 BY MR. FRIESEN:
 23 Q. If you look back on that one-page
 24 exhibit, 2563 --
 25 A. Yes.

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1 Leon C. Sunstein, Jr.
 2 Q. -- which Ms. Meaden just talked to
 3 you about, I just wanted to clarify one thing.
 4 Since you can't remember seeing this
 5 at the time, I take it, though, that you
 6 believe that, hypothetically, if you had seen
 7 it, just looking at it, you would have been
 8 concerned?
 9 MS. MEADEN: Objection.
 10 A. I can say, yes, I would be
 11 concerned.
 12 MR. FRIESEN: They are all the
 13 questions I have.
 14 MS. MEADEN: Thank you.
 15 VIDEO SPECIALIST: That now
 16 concludes this videotaped deposition.
 17 The time, 1:58.
 18 (Witness excused.)
 19 (Deposition concluded at 1:58
 20 p.m.)
 21 - - -
 22
 23
 24
 25

31 (Pages 118 to 121)

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1 Leon C. Sunstein, Jr.

2 Q. -- which Ms. Meaden just talked to
3 you about, I just wanted to clarify one thing.

4 Since you can't remember seeing this
5 at the time, I take it, though, that you
6 believe that, hypothetically, if you had seen
7 it, just looking at it, you would have been
8 concerned?

9 MS. MEADEN: Objection.

10 A. I can say, yes, I would be
11 concerned.

12 MR. FRIESEN: They are all the
13 questions I have.

14 MS. MEADEN: Thank you.

15 VIDEO SPECIALIST: That now
16 concludes this videotaped deposition.
17 The time, 1:58.

18 (Witness excused.)

19 (Deposition concluded at 1:58
20 p.m.)

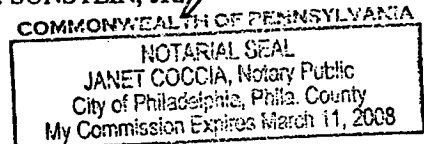
21 - - -

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1 I have read the foregoing
2 transcript of my examination given on
3 Thursday, May 6, 2004, and it is true,
4 correct and complete, to the best of my
5 knowledge, recollection, and belief,
6 except for the corrections noted hereon
7 and/or list of corrections, if any,
8 attached on a separate sheet herewith.

9
10
11
12
13

LEON C. SUNSTEIN, JR.



19 Subscribed and sworn to
20 before me this 1 day
21 of June, 2004

22
23
24
25

Notary Public

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1 INDEX

2 WITNESS

3 PAGE

4 LEON C. SUNSTEIN, JR.

5 By Mr. Friesen 4, 120

6 By Ms. Meaden 111

7 - - -
8 EXHIBITS

9 NO. DESCRIPTION PAGE

10 2561 Packet for Special Meeting of
11 the Board of Trustees of AHERF,
12 1/5/98 17

13 2562 Packet for Special Meeting of
14 the Board of Trustees, AHERF,
15 Meeting as the Member of
16 Allegheny University
17 Hospitals - East 18

18 2563 Eastern Region Hospitals
19 Combined Statement of Revenue
20 and Expenses for the Three
21 Months Ended 9/30/97 67

22 2564 Memo from Ms. White, to Members
23 of the AHERF Board of Trustees,
24 12/30/97 80

25 2565 Handwritten notes 92

2566 Trustees' Evaluation 99

2567 Trustees' Evaluation 104

21 - - -

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1 I HEREBY CERTIFY that the
2 proceedings and evidence are contained
3 fully and accurately in the stenographic
4 notes taken by me upon the foregoing
5 matter on Thursday, May 6, 2004, and that
6 this is a correct transcript of same.
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(The foregoing certification of
this transcript does not apply to any
reproduction of the same by any means,
unless under the direct control and/or
supervision of the certifying reporter.)

Taylor Dep.

In The Matter Of:

AHERF v.
PRICEWATERHOUSECOOPERS

DEBORAH STEWART TAYLOR
June 29, 2004

LEGALINK MANHATTAN
420 Lexington Avenue - Suite 2108
New York, NY 10170
PH: 212-557-7400 / FAX: 212-692-9171

TAYLOR, DEBORAH STEWART - Vol. 1



<p style="text-align: right;">Page 82</p> <p>1 DEBRA STEWART TAYLOR</p> <p>2 BY MR. KRUSKO:</p> <p>3 Q. Okay. Do you recall at any point in time</p> <p>4 receiving a communication from anyone at PNC Bank</p> <p>5 complaining about the format of audited financial</p> <p>6 statements that it received?</p> <p>7 A. No.</p> <p>8 Q. And do you recall receiving any complaint</p> <p>9 from anyone on behalf of MBIA concerning the</p> <p>10 format of any audited financial statements that it</p> <p>11 received?</p> <p>12 MR. TORBORG: I'd like to object to that</p> <p>13 question and the one before.</p> <p>14 THE WITNESS: No, I don't recall that.</p> <p>15 BY MR. KRUSKO:</p> <p>16 Q. Are you familiar with the term master</p> <p>17 continuing disclosure agreement?</p> <p>18 A. I'm familiar with continuing disclosure</p> <p>19 agreement.</p> <p>20 Q. What's your understanding of what such an</p> <p>21 agreement is?</p> <p>22 A. I think that document generally is what's</p> <p>23 signed up and you send information out to the</p> <p>24 repositories.</p> <p>25 Q. When you say you, are you referring to a</p>	<p style="text-align: right;">Page 84</p> <p>1 DEBRA STEWART TAYLOR</p> <p>2 Q. Just in general.</p> <p>3 A. It varies.</p> <p>4 Q. Okay.</p> <p>5 A. Because sometimes the obligor acts as</p> <p>6 their own dissemination agent.</p> <p>7 Q. In the '95 to '98 time frame, do you</p> <p>8 recall Norwest serving as a dissemination agent?</p> <p>9 A. On any deal?</p> <p>10 Q. In any deal.</p> <p>11 A. Probably.</p> <p>12 Q. Okay.</p> <p>13 A. But I couldn't say specifically what</p> <p>14 deals.</p> <p>15 Q. Would the functions that Norwest performed</p> <p>16 in its, in the capacity of a dissemination agent</p> <p>17 be spelled out in a continuing disclosure</p> <p>18 agreement?</p> <p>19 A. Could you repeat that?</p> <p>20 Q. Sure. Was there any particular document</p> <p>21 in those instances in which Norwest served as a</p> <p>22 dissemination agent that would spell out Norwest's</p> <p>23 functions in that capacity?</p> <p>24 A. As a dissemination agent?</p> <p>25 Q. Right.</p>
<p style="text-align: right;">Page 83</p> <p>1 DEBRA STEWART TAYLOR</p> <p>2 master trustee?</p> <p>3 A. No. Generally it's whoever the</p> <p>4 dissemination agent is.</p> <p>5 (Deposition Exhibit Number 2677 was marked</p> <p>6 for identification and attached to the</p> <p>7 transcript.)</p> <p>8 BY MR. KRUSKO:</p> <p>9 Q. Ms. Taylor, I believe you have a copy of</p> <p>10 Exhibit 2677, which was Bates stamped Foley 22546</p> <p>11 to Foley 22571.</p> <p>12 Ms. Taylor, you just referenced a</p> <p>13 dissemination agent, correct?</p> <p>14 A. Uh-huh.</p> <p>15 Q. What's your understanding as to what the</p> <p>16 functions of a dissemination agent are?</p> <p>17 A. You get the information and then you send</p> <p>18 it out.</p> <p>19 Q. What information are you referring to?</p> <p>20 A. Whatever the, whatever the borrower sends</p> <p>21 you, you send that out.</p> <p>22 Q. In the typical case, based on your</p> <p>23 experience, did a master trustee also serve as a</p> <p>24 dissemination agent?</p> <p>25 A. Are you speaking in general or --</p>	<p style="text-align: right;">Page 85</p> <p>1 DEBRA STEWART TAYLOR</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And would that be the continuing</p> <p>4 disclosure agreement?</p> <p>5 A. Yes, sometimes.</p> <p>6 Q. You have before you Exhibit 2677.</p> <p>7 A. Okay.</p> <p>8 Q. This is an unsigned document containing</p> <p>9 the heading on the first page master continuing</p> <p>10 disclosure agreement that came from the files of</p> <p>11 Foley & Lardner. Are you familiar with the law</p> <p>12 firm Foley & Lardner.</p> <p>13 A. I've heard of them. Who -- I guess what</p> <p>14 capacity were they in?</p> <p>15 Q. That was actually a question I had for</p> <p>16 you.</p> <p>17 A. Oh.</p> <p>18 Q. And that is whether you recall Foley &</p> <p>19 Lardner?</p> <p>20 A. Oh, I'm sorry.</p> <p>21 Q. That's okay. Do you recall whether Foley</p> <p>22 & Lardner served as an advisor or a counselor to</p> <p>23 AHERF at any point in time?</p> <p>24 A. I don't remember. I don't know.</p> <p>25 Q. Okay. This particular continuing</p>

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DEBRA STEWART TAYLOR

disclosure agreement in the opening passage on the first page, 22546, states that Allegheny University Hospitals was to be the initial obligated group agent. Do you see that?

A. Uh-huh.

Q. And then Norwest Bank of Minnesota is identified as being the dissemination agent. Do you see that?

A. I do.

Q. Okay. Do you recall whether Norwest served as the dissemination agent with respect to certain financial information that was required to be produced under the master trust indenture for the AHERF bonds?

A. I know that was -- could you, that was a long --

Q. I apologize. My question for you is whether you recall that in addition to being bond trustee and master trustee, Norwest served as the dissemination agent for information that was required to be produced under the master trust indenture for what you're referring to as the AHERF bonds?

A. I don't remember that, but it's possible.

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DEBRA STEWART TAYLOR

Q. Based on your experience in '95 and through '98, in the general case, would a dissemination agent be responsible for collecting and distributing annual audited financial statements?

A. It would be generally annual information and that's whatever the borrowers provide you with. So I wouldn't say specifically audited financial statements but, you know, whatever the borrowers provided us with, that's what we would send out.

Q. Do you see here in section 1 of Exhibit 2677, in the middle there, reference is made to an annual report that the obligated group according to this document was required to produce, again it's in the middle of the passage there?

A. Where it says during the fiscal year immediately preceding the date of such annual report? No?

Q. Oh, I see, yeah, just before that, do you see a reference about three lines before to an annual report?

A. Where it says to disseminate an annual report?

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DEBRA STEWART TAYLOR

Q. Right.

A. Okay, yes.

Q. Do you have an understanding of what an annual report is just in a general sense?

A. I know it contains financial information.

Q. And at least according to the first page of Exhibit 27 -- excuse me, 2677, Norwest Bank as the dissemination agent was required to disseminate this annual report among possibly some other information, correct?

MR. MAGID: Objection, document speaks for itself.

THE WITNESS: Based on this, let's see, I'd really have to go through here and I don't want to say yea or nay, but generally, continuing disclosure agreements, the dissemination agent would be required to send out the annual information, wherever that might be.

BY MR. KRUSKO:

Q. And that's a reporting requirement similar to what's contained in a master trust indenture?

A. I couldn't speak to that.

Q. Okay.

(Deposition Exhibit Number 2678 was marked

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DEBRA STEWART TAYLOR

for identification and attached to the transcript.)

BY MR. KRUSKO:

Q. I believe you have what we've just marked as Exhibit 2678. Ms. Taylor, the first page of Exhibit 2678 is a letter from Becky Serafini to Sue Gilbert, dated November 10th, 1997, to which you were copied without enclosures, correct?

A. That's what it appears to say here.

Q. Do you recall receiving or reviewing this letter?

A. No.

Q. Do you recall receiving or reviewing the draft amendment which is attached to this letter?

A. No.

Q. Do you recall working with a woman by the name of Becky Serafini at any point in time?

A. Yes.

Q. Is it your recollection that in this time frame, November 1997, Ms. Serafini was an attorney with Foley & Lardner?

A. That, I don't remember. I mean, I've worked with her in the past. And I've worked with her on different deals, so I couldn't really speak

<p style="text-align: right;">Page 142</p> <p>1 DEBRA STEWART TAYLOR</p> <p>2 I meant but --</p> <p>3 BY MR. KRUSKO:</p> <p>4 Q. More generally, in connection with what</p> <p>5 you're terming the AHERF bonds, do you recall</p> <p>6 providing information to PNC bank?</p> <p>7 A. I don't recall. I mean, we sent a lot of</p> <p>8 information out and so, you know, I can't say a</p> <p>9 definite yes or a definite no. But, you know, if</p> <p>10 I said here that we were going to send it to them,</p> <p>11 more than likely we did.</p> <p>12 Q. With respect to Exhibit 418, do you recall</p> <p>13 seeing this letter at any point in time prior to</p> <p>14 today?</p> <p>15 A. No.</p> <p>16 Q. Do you have any understanding as to what's</p> <p>17 being conveyed in this letter?</p> <p>18 A. I mean, it sounds like they are sort of</p> <p>19 changing the format of their financial reports or</p> <p>20 their audited statements.</p> <p>21 Q. But that's just based on a quick scan of</p> <p>22 the document here today?</p> <p>23 A. Yes.</p> <p>24 MR. KRUSKO: I don't have any further</p> <p>25 questions.</p>	<p style="text-align: right;">Page 144</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, DEBRA STEWART TAYLOR, do hereby</p> <p>3 acknowledge that I read and examined the foregoing</p> <p>4 testimony, and the same is a true, correct, and</p> <p>5 complete transcription of the testimony given by</p> <p>6 me and any corrections appear on the attached</p> <p>7 Errata sheet signed by me.</p> <p>8</p> <p>9</p> <p>10 _____</p> <p>11 (DATE) (SIGNATURE)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 143</p> <p>1 DEBRA STEWART TAYLOR</p> <p>2 MR. TORBORG: I have no further questions.</p> <p>3 MR. MAGID: We'll read and sign.</p> <p>4 THE VIDEOGRAPHER: We are going off the</p> <p>5 record. This marks the end of the deposition of</p> <p>6 Ms. Taylor. The total number of tapes used was</p> <p>7 two. The time now is 2:29 p.m. and we are off the</p> <p>8 record.</p> <p>9 (Signature having been not waived, the</p> <p>10 deposition of DEBRA STEWART TAYLOR was concluded</p> <p>11 at 2:29 p.m.)</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 145</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC</p> <p>2 I, Cynthia R. Simmons, Registered</p> <p>3 Merit Reporter, Certified Realtime Reporter,</p> <p>4 the officer before whom the foregoing deposition</p> <p>5 was taken, do hereby certify that the foregoing</p> <p>6 transcript is a true and correct record of the</p> <p>7 testimony given; that said testimony was taken by</p> <p>8 me stenographically and thereafter reduced to</p> <p>9 typewriting under my supervision; and that I am</p> <p>10 neither counsel for or related to, nor employed by</p> <p>11 any of the parties to this case and have no</p> <p>12 interest, financial or otherwise, in its outcome.</p> <p>13 IN WITNESS WHEREOF, I have hereunto</p> <p>14 set my hand and affixed my notarial seal this</p> <p>15 5th day of July `2004.</p> <p>16 My commission expires:</p> <p>17 September 30, 2008</p> <p>18</p> <p>19 _____</p> <p>20 NOTARY PUBLIC IN AND FOR</p> <p>21 THE DISTRICT OF COLUMBIA</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Thomas Dep.